

FILED

DEC 11 2003

LARRY W. PROPPES, CLERK
COLUMBIA, S.C.IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

COLUMBIA DIVISION

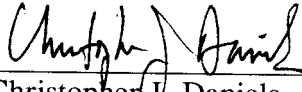
Dr. Jeffrey Morehouse,)	Civil Action No. 3:03-887-22
)	
Plaintiffs,)	
)	
vs.)	<u>MOTION OF DEFENDANT</u>
)	<u>LOUISVILLE LADDER GROUP, LLC</u>
Louisville Ladder Group, LLC,)	<u>TO EXCLUDE OPINION TESTIMONY</u>
)	<u>AND FOR SUMMARY JUDGMENT</u>
Defendants.)	
)	

The Defendant, Louisville Ladder Group, LLC, by and through its undersigned attorneys, hereby moves to exclude from evidence certain opinion testimony of Dr. Bryan Durig, a mechanical engineer retained by plaintiff as an expert, and, for summary judgment. This motion is made upon the grounds that the testimony of Dr. Durig demonstrates that his opinions fail to meet the admissibility criteria of Federal Rule of Civil Procedure 702 and Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993); therefore, Dr. Durig's opinions must be excluded. Furthermore, since excluding Dr. Durig's opinion testimony renders plaintiff's product liability action deficient as a matter of law, Louisville Ladder Group, LLC is entitled to summary judgment.

17

This motion is supported by the attached memorandum, pleadings, and deposition testimony in this case.

NELSON MULLINS RILEY & SCARBOROUGH, L.L.P.

By: 
Christopher J. Daniels
Federal Bar No. 411
Keenan Building, Third Floor
1330 Lady Street
Post Office Box 11070 (29211)
Columbia, SC 29201
(803) 799-2000

John L. Tate
STITES & HARBISON, PLLC
400 West Market Street, Suite 1800
Louisville KY 40202-3352
(502) 587-3400

Attorneys for Louisville Ladder Group, LLC

Columbia, South Carolina

12 | 11, 2003

CERTIFICATE OF SERVICE

I, the undersigned Administrative Assistant, of the law offices of Nelson Mullins Riley & Scarborough, L.L.P., attorneys for Defendant, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings:

Motion of Defendant Louisville Ladder Group, LLC to Exclude
Opinion Testimony and for Summary Judgment

Counsel Served:

S. Kirkpatrick Morgan, Jr., Esquire
Walker, Morgan & Kinard, L.L.C.
Post Office Box 949
Lexington, SC 29071



Lisa P. Whitehurst, PLS
Administrative Assistant

December 11, 2003